IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 37654 of 2003(G)

PETITIONER:

VARGHESE P.M. S/O. MASILA MONEY,
WORKING IN KLD BOARD, RESIDING AT VEDIKUZHIKKARA,
VAGAMON VILLAGE, PEERUMEDU TALUK.

BY ADV. SRI.G.BHAGAVAT SINGH

RESPONDENTS:

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1. ACHUTHAN S/O. KESAVAN,
MATTATHU VEEDU, VEDIKUZHI PUTHUVAL,
VAGAMON VILLAGE, PEERUMEDU TALUK.

2. RAMACHANDRAN S/O. SANKARAN,
EZHOLICKAL VEEDU, VEDIKUZHI PUTHUVAL,
VAGAMON VILLAGE, PEERUMEDU TALUK.

R1 BY ADV. SRI.T.I.ABDUL SALAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.37654/03

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF I.A.886/01 DT.28.11.01 FILED BY PETR. BEFORE SUB COURT, KATTAPPANA.

EXT.P2 – TRUE COPY OF ORDER IN I.A.886/01 AND 887/01 IN O.S.88/99 PASSED BY SUB COURT, KATTAPPANA, DT.8.8.02

EXT.P3 – TRUE COPY OF CMA.1298/02 FILED BY PETR. BEFORE DIST. COURT, THODUPUZHA, DT.12.11.02.

EXT.P4 – TRUE COPY OF JUDGMENT IN DO. DT.23.8.03 PASSED BY DIST. COURT, THODUPUZHA.

EXT.P5 – TRUE COPY OF JUDGMENT IN O.S.326/97 DT.22.12.99 OF MUNSIFF, PEERMEDU.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.37654 OF 2003

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DATED THIS THE 14TH JUNE, 2007

J U D G M E N T

Notwithstanding the fervent submissions of Sri.G.Bhagavat Sing, counsel for the petitioner, I am not prepared to say that Ext.P4 judgment of the learned District Judge, confirming the order of the learned Munsiff dismissing the petitioner's application for setting aside ex parte decree, is tainted by infirmities of such a magnitude as to warrant correction in this Court's supervisory jurisdiction under Article 227 of the Constitution. I notice that the learned District Judge has noticed that the petitioner had actually received notice. When, during the course of the submissions, I asked the counsel for the petitioner as to whether the records can be called for on condition that if the records reveal that the petitioner had received notice as recorded by the learned District Judge, the petitioner will be mulcted with exemplary costs, the response of the counsel was lukewarm. It is clear that the petitioner had suppressed material facts while making the application for setting aside the ex parte decree. There is no warrant for interfering with Ext.P4 except to reduce the amount of

costs ordered by the learned District Judge to Rs.1000/-. In all other respects Ext.P4 judgment will stand confirmed.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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